

(Rev. 11/2012)

**FILED - GR**

February 26, 2021 2:16 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JMW SCANNED BY: SW 13-1**PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

<b>United States District Court</b>	District
Name (under which you were convicted): <u>DAVID MICHAEL STEWART</u>	Docket or Case No.: <u>15-10568-FH 15-10820-FH</u>
Place of Confinement: <u>N/A</u>	Prisoner No.: <u>615709</u>
Name of Petitioner (include name under which convicted) <u>DAVID MICHAEL STEWART</u>	Name of Respondent (authorized person having custody) <u>V.</u>
The Attorney General of the State of: <u>MI.</u>	

**1:21-cv-194**Hala Y. Jarbou - U.S. District Judge  
Sally J. Berens- Magistrate Judge**PETITION**

- (a) Name and location of court that entered the judgment of conviction you are challenging: KENT COUNTY 17<sup>TH</sup>  
CIRCUIT COURT, 180 OTTAWA AVE. N.W. GRAND RAPIDS, MICHIGAN 49503
- (b) Criminal docket or case number: 15-10568-FH 15-10820-FH
- Date of judgment of conviction: 3/2/17
- Identify all counts and crimes for which you were convicted and sentenced in this case: TWO COUNTS OF  
VIOLATING THE SEX OFFENDERS REGISTRATION ACT (SORA) MCL 28,721
- Length of sentence for each count or crime for which you were convicted in this case: I SERVED 42 MONTHS  
AND A 15 MONTH PAROLE (12/15/18 THRU 6/9/19) AND PAROLE ENDED IN SEPTEMBER OF 2020
- (a) What was your plea?
  - Not guilty ☒
  - Guilty ☐
  - Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or charge, and a not guilty plea to another count or charge, give details:

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6. If you went to trial, what kind of trial did you have? (Check one)

- (a) Jury ☒  
(b) Judge only ☐

7. Did you testify at the trial? Yes ☒ No ☐

8. Did you file a direct appeal to the Michigan Court of Appeals from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Date you filed: \_\_\_\_\_

(b) Docket or case number: 338014

(c) Result: \_\_\_\_\_

(d) Date of result: DECISION REACHED ON 11/6/18 I RECEIVED DECISION ON 11/15/18

(e) Grounds raised: BRADY V MARYLAND 373 US 83

THE APPELLATE COURT CONFUSED SUBMISSION OF AFFIDAVITS, COMPLETELY IGNORING THE PROSECUTORS WILLFULLY HIDING EVIDENCE BENEFICIAL TO MY CASE. HE FOCUSED ON A LETTER THAT PUTS HIM IN ERROR. THE LETTER WOULD HAVE EXONERATED ME!

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(g) Did you seek further review of the decision on appeal by the Michigan Supreme Court? Yes ☒ No ☐

If yes, answer the following:

(1) Date you filed: 12/17/18

(2) Docket or case number: 158877

(3) Result: DENIED

(4) Date of result: 9/10/2019

(5) Grounds raised: THE SUM TOTAL OF EVERYTHING I SUBMITTED TO THE APPELLATE COURT

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(h) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☐

If yes, answer the following:

(1) Date you filed: \_\_\_\_\_

(2) Docket or case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_

10. Did you file a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules with respect to the judgment of conviction and sentence? Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Date you filed: DECISION REACHED ON 11/6/2018

(2) Name of court: APPELLATE (STATE OF MICHIGAN)

(3) Docket or case number: 338014

(4) Grounds raised: BRADY V MARYLAND 373 U.S. 83 DUE PROCESS OF LAW

(5) Did you receive a hearing where evidence was given on your motion? Yes ☐ No ☒

(6) Result: \_\_\_\_\_

(6) Date of result: \_\_\_\_\_

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(b) If you sought further review of the decision in the Michigan Court of Appeals, please answer the following:

- (1) Date you filed: \_\_\_\_\_
- (2) Docket or case number: 338014
- (3) Result: CONVICTION AFFIRMED
- (4) Date of result: \_\_\_\_\_
- (5) Grounds raised: BRADY V MARYLAND 373 U S 83  
DUE PROCESS OF LAW

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

(c) If you sought further review of the decision in the Michigan Supreme Court, please answer the following:

- (1) Date you filed: 12/17/18
- (2) Docket or case number: 158874
- (3) Result: DENIED
- (4) Date of result: 9/10/2019
- (5) Grounds raised: THE SAME AS RAISED IN THE APPELLATE COURT

Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.

12. Other than a direct appeal or a motion for relief from judgment, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes ☐ No ☒
13. If your answer to 12 was "yes," give the following information: [Attach additional sheets of paper, if necessary, to answer the following for each petition, application, or motion you filed.]

- (a) (1) Date you filed: \_\_\_\_\_
- (2) Name of court: \_\_\_\_\_
- (2) Docket or case number: \_\_\_\_\_
- (3) Nature of the proceeding: \_\_\_\_\_

(4) Grounds raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(5) Did you receive a hearing where evidence was given on your motion? Yes ☐ No ☐

(6) Result: \_\_\_\_\_

(7) Date of result: \_\_\_\_\_

**Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**

- (b) Did you appeal to the highest court having jurisdiction the result of action taken on any petition, application or motion?  
Yes ☒ No ☐

If yes, please provide the following:

(1) Date you filed: 12/17/2018

(2) Name of court: MICHIGAN SUPREME COURT

(3) Result: DENIED

(4) Date of result and case number: 9/10/2019 158874

(5) Grounds raised: THE SAME AS IN THE APPELLATE COURT WITH THE ADDITION OF  
MY COMPLAINT OF THE PROSECUTORS INADMISSION OF EVIDENCE I HAD GIVEN HIM IN  
THE COURTROOM.

**Please submit, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.**

- (c) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: BRADY V MARYLAND 373 US 83

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

THE APPELLATE COURT WAS IN ERROR ON CONCLUSIONS DRAWN CONCERNING AFFIDAVITS  
THAT WERE SUBMITTED BY ME AT MY JURY TRIAL AND THE MICHIGAN SUPREME  
COURT DID NOT ADDRESS THIS IN ANY FASHION,

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: THE ISSUE STEMS FROM THE  
APPELLATE COURT BEING IN ERROR. THEY ARE CONFUSED ON ISSUE PRESENTED  
IN THE LOWER COURT, SO THE ISSUE WAS CREATED BY THE APPELLATE COURT.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Date motion was filed: 12/17/2019

Name and location of the court where the motion was filed: MICHIGAN SUPREME COURT

HALL OF JUSTICE P.O. BOX 30052 LANSING, MI. 48909

Docket or case number: 158874

Result (attach a copy of the court's opinion and order, if available): DENIED

Date of result: 9/16/2019

(3) Did you receive a hearing on your motion? Yes ☐ No ☒

(4) Did you appeal from the denial of your motion? Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: \_\_\_\_\_

Name and location of court: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available): \_\_\_\_\_

Date of result: \_\_\_\_\_

- (d) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/A

- (e) If you did not exhaust your state remedies on Ground One, explain why: \_\_\_\_\_

**GROUND TWO:** \_\_\_\_\_

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

- (b) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Date motion was filed: \_\_\_\_\_

Name and location of the court where the motion was filed: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available): \_\_\_\_\_

Date of result: \_\_\_\_\_

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion? Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: \_\_\_\_\_

Name and location of court: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available): \_\_\_\_\_

Date of result: \_\_\_\_\_

(d) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: \_\_\_\_\_

(e) If you did not exhaust your state remedies on Ground Two, explain why: \_\_\_\_\_



**GROUND THREE:** \_\_\_\_\_

(a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Date motion was filed: \_\_\_\_\_

Name and location of the court where the motion was filed: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available): \_\_\_\_\_

Date of result: \_\_\_\_\_

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion? Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: \_\_\_\_\_

Name and location of court: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available) : \_\_\_\_\_

\_\_\_\_\_

Date of result: \_\_\_\_\_

- (d) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- (e) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**GROUND FOUR:** \_\_\_\_\_

\_\_\_\_\_

- (a) Supporting FACTS (Do not argue or cite law. Just state the specific facts that support your claim): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- (b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules? Yes ☐ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Date motion was filed: \_\_\_\_\_

Name and location of the court where the motion was filed: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available): \_\_\_\_\_

Date of result: \_\_\_\_\_

(3) Did you receive a hearing on your motion? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion? Yes ☐ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes ☐ No ☐

If yes, answer the following:

Date you filed: \_\_\_\_\_

Name and location of court: \_\_\_\_\_

Docket or case number: \_\_\_\_\_

Result (attach a copy of the court's opinion and order, if available): \_\_\_\_\_

Date of result: \_\_\_\_\_

(d) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: \_\_\_\_\_

(e) If you did not exhaust your state remedies on Ground Four, explain why: \_\_\_\_\_

15. Have you previously filed any type of petition, application or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☐

If "Yes," state the date of filing, the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available:

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16. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, as to the judgment you are challenging? Yes ☐ No ☐

If "Yes," state the date of filing, the name and location of the court, the docket or case number, the type of proceeding, and the issues raised:

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17. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: \_\_\_\_\_

\_\_\_\_\_

(b) At arraignment and plea: \_\_\_\_\_

\_\_\_\_\_

(c) At trial: \_\_\_\_\_

\_\_\_\_\_

(d) At sentencing: \_\_\_\_\_

\_\_\_\_\_

(e) On appeal: \_\_\_\_\_

\_\_\_\_\_

(f) In any post-conviction proceeding: \_\_\_\_\_

(g) On appeal from any adverse ruling in a post-conviction proceeding: \_\_\_\_\_

18. Do you have any future sentence to serve after you complete the sentence imposed by the judgment you are challenging?  
Yes ☐ No ☐

(a) If so, give the name and location of court which imposed the sentence to be served in the future: \_\_\_\_\_

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the above sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future?  
Yes ☐ No ☐

19. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

I FACED DELAYS IN SECURING THE INFORMATION WITH THE HONORABLE COURT WOULD  
NEED DUE TO THE FACT THAT I WAS AND STILL AM HOMELESS AND THE SITUATION  
BEING AMPLIFIED BY THE COVID 19 PANDEMIC.

\*The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant him or her the relief to which he may be entitled in this proceeding.

I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_ (month, date, year).

David M Stewart  
Signature of Petitioner

2 / 25 / 2021  
Date

\_\_\_\_\_  
Signature of Attorney (if any)

If the person signing is not petitioner or an attorney, state relationship to petitioner and explain why petitioner is not signing this petition. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





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